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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,900	09/28/2000	Stuart A. Fraser	CF/008	7800

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1251 AVENUE OF THE AMERICAS
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NEW YORK, NY 10020-1105

EXAMINER

CHANG, SABRINA A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/670,900

Applicant(s)

FRASER ET AL.

Examiner

Sabrina Chang

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37,39-56,58-77,79-98,100-119 and 121-128 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1-37,39-56,58-77,79-98,100-119 and 121-128 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.

- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)

- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

- 5) ☐ Notice of Informal Patent Application (PTO-152)

- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

Applicant's amendment to claims 1,2,5,13,18,19,34,53,74,95,116,117,123,126, and 127 as well as cancellation of claims 38, 57, 78, 99, and 120 have been fully considered.

Response to Arguments

Claims 1-33

Applicant asserts that the art of record does not sufficiently address the claims' recitation of a "consumer selectable interface". Further applicant asserts that the examiner's combination of Gebb with Walker is improper.

Applicant's arguments are not found persuasive. The recitation of a "consumer selectable interface" is not clear (see 112 rejection) and the explanation of the recitation, as described by the applicant in paper No. 10, is still obvious in view of the art of record. Gebb clearly describes a system and method for reselling tickets over a computer network. The uniqueness of Gebb hinges on the integration of the original ticket provider in the resale process. Gebb discloses that depending on the location of the ticket provider, the ticket can be resold by a consumer using either a simple posting process (advertising interface) or an auction format (bidding). In fact, the combination of Gebb with Walker is unnecessary and is hereby withdrawn – where Gebb in and of itself already discloses posting resale opportunities at a set price (advertising). It would have been obvious that a consumer would have a choice of either selling medium, dependent on availability, in that the system supports both selling formats (consumer selectable interface).

Claims 34-37, 58-77, 79-98, 100-119, and 121-128

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Applicant asserts that Gebb teaches away from the recitation of providing the resale tickets to a "select group of buyers" because its purpose is to "allow sellers to reach a wider market". Gebb discloses a ticket reselling system available via the Internet in order to provide ubiquity and ease of access. This does not however preclude the possibility of restricting access to the system (i.e. presenting the ticket to a select group of buyers). Membership-based web sites are notoriously known in the art of Internet web sites as a means of tracking purchases and/or activity and maintaining customer information in the hopes of generating future revenue through more relevant advertisements or promotions. Such systems require passwords or logins and restrict access to only a subset of the entire Internet population, i.e. those willing to sign up (select group of buyers). It would have been obvious for Gebb to incorporate such mechanisms that are notoriously known in the art. As such, applicant's arguments are found not persuasive.

A clarified rejection is stated below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-115 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The invention as recited in the claims is merely an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter.

Claim Rejections - 35 USC § 112

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 13, and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what "consumer selectable interface" comprises.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 52 are rejected under 35 U.S.C. 103(a) as being anticipated by Gebb U.S. Patent No. 6,067,532.

Gebb discloses a method for redistributing tickets on a secondary market. Potential sellers (first consumers) enroll with the system manager via telephone, fax, mail, E-mail, or Internet (the first consumers enroll in the system to transfer an item with restricted transferability) [Col 6, Line 2]. The sellers submit an address, a credit card and/or other information to verify their identity and trustworthiness [Col 6, Line 5]. The system then sends a consignment data packet to the seller's computer requesting that the seller approve the consignment agreement (requesting authorization to transfer the item) [Col 6, Line 15]. After the seller is verified, the ticket information itself is verified with the master arena (provider) database. In a preferred embodiment, the master arena database verifies the existence of the

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event and seat and the initial sale of the specific seat (contacting the provider to verify whether the first consumer possess the item) [Col 7, Line 36]. The ticket server limits the number of tickets, which an individual seller can consign per event (placing additional restrictions on the item where the constriction comprises a maximum number of tickets available for sale) [Col 7, Line 50]. The ticket server also analyzes any agreements with the particular arena, promoter or entity (providers) regarding the establishment of resale prices (restriction comprises at least one of minimum transfer price, a provider authorizing the transfer) [Col 7, Line 53].

Once the seller has authorized the transaction and their information has been verified, their ticket information is sent to the system and stored in the ticket database [Col 5, Line 9]. In one scenario, the system calculates a set price for the ticket and posts the resale opportunity is simply posted at this price (advertising interface) [Col 7, Line 55]. Alternatively, the ticket information can be placed in an offer database allowing potential buyers (second consumers) to bid for the ticket such that the ticket will be sold to the highest bidder (bidding interface, receiving a bid to purchase the item from the second consumer in response to presenting information on the item, acceptance of the bid by the first consumer).

Buyers can browse available tickets and place their bid (presenting information on the item to a second customer [Col 7, Line 65]. If their bid is successful then the buyer pays for the ticket at the time of purchase using any known credit card transaction or payment mechanism known in the art, i.e. cash, check, smart card [Col 8, Line 30]. Buyers must enter their credit card, address and other demographic information to be stored in a buyer database [Col 8, Line 37]. The buyer's information is verified before their purchase of the tickets is authorized (authorization of second consumer prior to arranging for transfer) [Col 8, Line 44]. The ticket is

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then distributed to the buyer via a desired distribution method selected by the buyer [Col 8, Line 44]. These measures include mailing the ticket to the system manager, from the seller, for redistribution, deactivating the authorization on the initial ticket, or informing the arena not to accept the original ticket (instructing the first consumer to send the item to the second through the provider and providing for the second consumer to make payment for the item, instructing the first consumer to send the item to the second consumer directly and providing for the second consumer to make payment) [Col 9, Line 2].

If the entire transaction is conducted properly, the seller is credited a predetermined amount – for example the face value of the ticket less the transaction fee or less any other fees as required by contract with the arena (provider) the State, etc. (the provider receives a fee from the payment of the second consumer, where the fee is a flat or a percentage payment) [Col 9, Line 16]. The seller can be credited by any number of means including cash check, etc.

Gebb does not explicitly disclose that the system and method incorporates a “consumer selectable interface”. However, in that the system supports both selling formats, it would have been obvious to one skilled in the art at the time to allow the seller to choose a preferred method of sale, i.e. auction or set-price, in order to give the seller the most flexibility, thereby enhancing customer satisfaction.

Claims 53 –56, 58-77, 79-98, 100-119, 121-128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebb U.S Patent No. 6,067,532, as applied in claims 1, 13, and 34 in view of official notice regarding website administration.

Gebb does not explicitly disclose that presenting information on the item to a “select group of consumers”

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Examiner takes official notice that membership-based websites that require password, login or some sort of identifying information to access the content are notoriously known in the art – examiner would like to note that the term “membership” is interpreted as broadly as possible and does not denote requirement of payment or subscription, it is merely defined here as a system that requires recognition of a user. Such mechanisms are generally implemented by requiring a user to supply certain information – including but not limited to a name, contact information, billing information –and storing that information in association with an identification – a password, a pin number, an ID, etc. - unique to the user. The user then can only view content on the website they are registered and have provided the system with some information by which the system can track their activities and preferences. Such systems are widely implemented for the purpose of creating more relevant content and sales promotions that are targeted to the particular needs of each user, thereby increasing the likelihood of a sale.

In that Gebb accounts for the registration of sellers as well as the storage of buyer information, it would have been obvious to modify the system to further account for a registration-based login, as taught by official notice, that would only allow a select group of consumers to view the tickets available for resale, in order to create a more relevant and personalized web experience for users, thereby increasing the likelihood of generating revenue for the system.

Conclusion

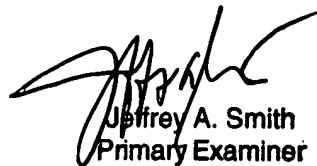
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabrina Chang whose telephone number is 703 305 4879. The examiner can normally be reached on 8:30 am - 5:30 pm Mon.- Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 703 308 3588. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

SC



Jeffrey A. Smith
Primary Examiner